



case be transferred to the Northern District of Texas or dismissed without prejudice to Plaintiff refiling in the proper venue. *See* docket no. 10 pp. 1-3.

### ANALYSIS

Section 28 U.S.C. § 1400(b) governs venue in patent cases. *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S.Ct. 1514, 1516-17 (2017). Under § 1400(b), venue is appropriate “in the judicial district where the defendant resides”, and a defendant “resides” only in the state of its incorporation. *TC Heartland*, 137 S.Ct. at 1517. However, with respect to states that are comprised of multiple judicial districts, such as Texas, “the judicial district” in which a defendant “resides” under § 1400(b) is determined by the location of its “principal place of business.” *See Sterling Drug Inc. v. Intermedics, Inc.*, No. CIV. A-82-CA-578, 1986 WL 15561, at \*1 (W.D. Tex. Aug. 6, 1986).

Here, the parties both state that PLED’s principal place of business is in San Angelo, Texas. *See* docket nos. 1 ¶ 2 & 8 p. 2 n.1. San Angelo, Texas is in the Northern District of Texas,<sup>1</sup> and for that reason, Plaintiff admits that “Defendant is correct in its assertion that venue does not lie in the Western District.” Docket no. 10 ¶ 2. The Court agrees that the Western District of Texas is an improper venue for Plaintiff’s claims.

Under 28 U.S.C. § 1406(a), the “court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” The Court believes that transferring this case to the Northern District of Texas would be in the interest of justice. *See Graham v. Dyncorp Int’l, Inc.*, 973 F. Supp. 2d 698, 705 (S.D. Tex. 2013) (noting that transfer generally serves the interests of justice and efficiency and is preferred over dismissal when venue

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<sup>1</sup> San Angelo is the county seat of Tom Green County, Texas, one of 100 counties that constitute the Northern District of Texas. The United States District Court for the Northern District of Texas has a division in San Angelo.

is improper). Specifically, transfer will facilitate “a more expeditious resolution of the merits” and will “avoid the costs and delay that would result from dismissal and refile.” *Id.* (quoting *Tex. Source Grp., Inc. v. CCH, Inc.*, 967 F. Supp. 234, 239 (S.D. Tex. 1997)).

### CONCLUSION AND ORDER

For the reasons set forth above, Defendant’s Motion to Dismiss for Improper Venue (docket no. 8) is **GRANTED IN PART** and **DENIED IN PART**, and the case is **TRANSFERRED** to the United States District Court for the Northern District of Texas.

It is so ORDERED.

SIGNED this 14 day of March, 2018.



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ORLANDO L. GARCIA  
Chief United States District Judge